

## § 300.312

participation of children with disabilities in general assessments).

(2) The requirements in §300.347(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(c) *Modifications of IEP or placement.*

(1) Subject to paragraph (c)(2) of this section, the IEP team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) The requirements of §§300.340(a) and 300.347(a) relating to IEPs, and 300.550(b) relating to LRE, do not apply with respect to the modifications described in paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1412(a)(1), 1414(d)(6))

## § 300.312 Children with disabilities in public charter schools.

(a) Children with disabilities who attend public charter schools and their parents retain all rights under this part.

(b) If the public charter school is an LEA, consistent with §300.17, that receives funding under §§300.711–300.714, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity.

(c) If the public charter school is a school of an LEA that receives funding under §§300.711–300.714 and includes other public schools—

(1) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and

(2) The LEA must meet the requirements of §300.241.

(d)(1) If the public charter school is not an LEA receiving funding under §§300.711–300.714, or a school that is part of an LEA receiving funding under §§300.711–300.714, the SEA is responsible

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for ensuring that the requirements of this part are met.

(2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity; however, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with §300.600.

(Authority: 20 U.S.C. 1413(a)(5))

## § 300.313 Children experiencing developmental delays.

(a) *Use of term developmental delay.* (1) A State that adopts the term *developmental delay* under §300.7(b) determines whether it applies to children aged 3 through 9, or to a subset of that age range (e.g., ages 3 through 5).

(2) A State may not require an LEA to adopt and use the term *developmental delay* for any children within its jurisdiction.

(3) If an LEA uses the term *developmental delay* for children described in §300.7(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

(4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(b) *Use of individual disability categories.* (1) Any State or LEA that elects to use the term *developmental delay* for children aged 3 through 9 may also use one or more of the disability categories described in §300.7 for any child within that age range if it is determined, through the evaluation conducted under §§300.530–300.536, that the child has an impairment described in §300.7, and because of that impairment needs special education and related services.

(2) The State or LEA shall ensure that all of the child's special education and related services needs that have been identified through the evaluation described in paragraph (b)(1) of this section are appropriately addressed.

(c) *Common definition of developmental delay.* A State may adopt a common definition of *developmental delay* for use

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in programs under Parts B and C of the Act.

(Authority: 20 U.S.C. 1401(3)(A) and (B))

**EVALUATIONS AND REEVALUATIONS**

**§ 300.320 Initial evaluations.**

(a) Each public agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services under Part B of the Act—

(1) To determine if the child is a “child with a disability” under §300.7; and

(2) To determine the educational needs of the child.

(b) In implementing the requirements of paragraph (a) of this section, the public agency shall ensure that—

(1) The evaluation is conducted in accordance with the procedures described in §§300.530–300.535; and

(2) The results of the evaluation are used by the child’s IEP team in meeting the requirements of §§300.340–300.350.

(Authority: 20 U.S.C. 1414(a), (b), and (c))

**§ 300.321 Reevaluations.**

Each public agency shall ensure that—

(a) A reevaluation of each child with a disability is conducted in accordance with §300.536; and

(b) The results of any reevaluations are addressed by the child’s IEP team under §§300.340–300.349 in reviewing and, as appropriate, revising the child’s IEP.

(Authority: 20 U.S.C. 1414(a)(2))

**§§ 300.322–300.324 [Reserved]**

**INDIVIDUALIZED EDUCATION PROGRAMS**

**§ 300.340 Definitions related to IEPs.**

(a) *Individualized education program.* As used in this part, the term *individualized education program* or *IEP* means a written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.341–300.350.

(b) *Participating agency.* As used in §300.348, *participating agency* means a State or local agency, other than the public agency responsible for a stu-

dent’s education, that is financially and legally responsible for providing transition services to the student.

(Authority: 20 U.S.C. 1401(11), 1412(a)(10)(B))

**§ 300.341 Responsibility of SEA and other public agencies for IEPs.**

(a) The SEA shall ensure that each public agency—

(1) Except as provided in §§300.450–300.462, develops and implements an IEP for each child with a disability served by that agency; and

(2) Ensures that an IEP is developed and implemented for each eligible child placed in or referred to a private school or facility by the public agency.

(b) Paragraph (a) of this section applies to—

(1) The SEA, if it is involved in providing direct services to children with disabilities, in accordance with §300.370(a) and (b)(1); and

(2) Except as provided in §300.600(d), the other public agencies described in §300.2, including LEAs and other State agencies that provide special education and related services either directly, by contract, or through other arrangements.

(Authority: 20 U.S.C. 1412(a)(4), (a)(10)(B))

**§ 300.342 When IEPs must be in effect.**

(a) *General.* At the beginning of each school year, each public agency shall have an IEP in effect for each child with a disability within its jurisdiction.

(b) *Implementation of IEPs.* Each public agency shall ensure that—

(1) An IEP—

(i) Is in effect before special education and related services are provided to an eligible child under this part; and

(ii) Is implemented as soon as possible following the meetings described under §300.343;

(2) The child’s IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and

(3) Each teacher and provider described in paragraph (b)(2) of this section is informed of—